

Deposition of
Cynthia Redpath

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CHRISTINE WILLIAMS, as Guardian and
Conservator of GEORGE WILLIAMS,
Legally Incapacitated Adult,

Plaintiffs,

Vs.

Case No. 04-435505NF
HON. KATHLEEN MacDONALD

AUTO CLUB INSURANCE ASSOCIATION,

Defendant.

The Videotaped-Deposition of CYNTHIA
REDPATH, taken before Sandra L. Krisfalusi, a Certified
Shorthand Reporter, #0942, and Notary Public in and for
the County of Macomb, acting in the County of Wayne,
State of Michigan, located at 1000 Woodbridge Street,
Detroit, Michigan, on Friday, the 21st Day of July,
2006, at 9:46 a.m.

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Deposition of Cynthia Redpath

Page 2	<p>1 APPEARANCES:</p> <p>2 THOMAS, GARVEY, GARVEY & SCIOTTI</p> <p>3 Attorneys at Law</p> <p>4 24825 Little Mack</p> <p>5 St. Clair Shores, Michigan 48080</p> <p>6 BY: JAMES McKENNA, ESQUIRE.</p> <p>7 Appearing on behalf of the Plaintiffs.</p> <p>8</p> <p>9 GARAN LUCOW MILLER, P.C.</p> <p>10 Attorneys at Law</p> <p>11 1000 Woodbridge Street</p> <p>12 Detroit, Michigan 48207-3192</p> <p>13 BY: TIMOTHY E. O'NEILL, ESQUIRE.</p> <p>14 Appearing on behalf of the Defendant.</p> <p>15</p> <p>16 Also Present: Ernest W. Burkeen, III,</p> <p>17 Video Technician.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	Page 4	<p>1 Detroit, Michigan</p> <p>2 On Friday, July 21, 2006</p> <p>3 At 9:46 a.m.</p> <p>4 * * *</p> <p>5 MR. BURKEEN: We are on the</p> <p>6 record. This is the videotaped-deposition of</p> <p>7 Cynthia Redpath being taken on July 21, 2006. The</p> <p>8 time is now 9:46 a.m.</p> <p>9 My name is Ernest Burkeen,</p> <p>10 video technician.</p> <p>11 Will the attorneys briefly</p> <p>12 state their appearances for the record, please.</p> <p>13 MR. McKENNA: James McKenna</p> <p>14 for the Plaintiff.</p> <p>15 MR. O'NEILL: Tim O'Neill for</p> <p>16 the Defendant.</p> <p>17 MR. BURKEEN: Will the court</p> <p>18 reporter please swear-in the Witness.</p> <p>19</p> <p>20 CYNTHIA REDPATH,</p> <p>21 Being first duly sworn to tell the truth, the</p> <p>22 whole truth and nothing but the truth, was</p> <p>23 examined and testified as follows:</p> <p>24 MR. McKENNA: Could you state</p> <p>25 your name for the record, please?</p>
Page 3	<p>1</p> <p>2 INDEX PAGE</p> <p>3 Direct Examination by Mr. McKenna 5</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 EXHIBITS PAGE</p> <p>12 Exhibit #1 (e-mail) 14</p> <p>13 Exhibit #2 (Status Report) 16</p> <p>14 Exhibit #3 (Status Report) 17</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	Page 5	<p>1 THE WITNESS: Cynthia Redpath.</p> <p>2 MR. McKENNA: Let the record</p> <p>3 reflect this is the date and time scheduled for</p> <p>4 the deposition of Cynthia Redpath taken pursuant</p> <p>5 to Notice and to be used for any and all purposes</p> <p>6 allowed under the Michigan Court Rules.</p> <p>7 DIRECT EXAMINATION</p> <p>8 BY MR. McKENNA:</p> <p>9 Q Miss Redpath, I'm going to ask you some questions</p> <p>10 today regarding your employment with the Auto</p> <p>11 Club.</p> <p>12 If at any time I ask a</p> <p>13 question you don't understand, will you please let</p> <p>14 me know?</p> <p>15 A Yes.</p> <p>16 Q If at any time you answer a question indicating</p> <p>17 you don't know, you're not sure, you don't</p> <p>18 remember or you'd just like to have that question</p> <p>19 repeated, would you do that for me as opposed to</p> <p>20 trying to change the question?</p> <p>21 A Yes.</p> <p>22 Q If you've given an answer and you've indicated</p> <p>23 that you're not sure and don't remember but later</p> <p>24 on you do, will you let me know and you can change</p> <p>25 your answer on the record.</p>

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<p style="text-align: right;">Page 6</p> <p>1 A Yes.</p> <p>2 Q Likewise, if you've given an answer to a question</p> <p>3 and you've indicated that you were certain of the</p> <p>4 answer, but later on for whatever reason you're</p> <p>5 not -- later on for whatever reason you realize</p> <p>6 that you'd like to change the answer, let me know</p> <p>7 and you can change that as well, okay?</p> <p>8 A Yes.</p> <p>9 Q At the conclusion of the deposition, the court</p> <p>10 reporter will type up each of the questions that I</p> <p>11 have asked you, as well as your answers. Whenever</p> <p>12 the judge or the jury or anyone else reads this,</p> <p>13 we will all assume that you've answered because</p> <p>14 you understand the question. Is that fair?</p> <p>15 A Yes.</p> <p>16 Q Because I told you don't answer if you don't</p> <p>17 understand?</p> <p>18 A Yes.</p> <p>19 Q We'll also assume that all of your questions and</p> <p>20 your answers are accurate and truthful. Is that</p> <p>21 fair?</p> <p>22 A Yes.</p> <p>23 Q Are you currently employed with the Auto Club?</p> <p>24 A Yes.</p> <p>25 Q Have you reviewed anything besides the file that I</p>	<p style="text-align: right;">Page 8</p> <p>1 department.</p> <p>2 Q Communication by who?</p> <p>3 A E-mails to myself from the legal department.</p> <p>4 Q And do you know what date those e-mails were?</p> <p>5 A No, I don't.</p> <p>6 Q Do you know who removed those e-mails?</p> <p>7 A Mr. O'Neill.</p> <p>8 Q And did that occur during your meeting?</p> <p>9 A Yes. Well, I left the file with him.</p> <p>10 Q Did you bring the purple file?</p> <p>11 A Yes.</p> <p>12 Q Is that what he removed the materials from?</p> <p>13 A Yes.</p> <p>14 Q Were all of the e-mails removed?</p> <p>15 A Yes.</p> <p>16 Q And your e-mails that were removed, do you know</p> <p>17 whether those e-mails were before or after</p> <p>18 litigation was filed on this case?</p> <p>19 A After.</p> <p>20 Q As I understand it your job is in -- a claims</p> <p>21 specialist for reserves; is that correct?</p> <p>22 A Correct.</p> <p>23 Q As a claims specialist in reserves, do you</p> <p>24 routinely communicate with the legal department?</p> <p>25 A If they need to have a reserve change they will</p>
<p style="text-align: right;">Page 7</p> <p>1 have in front of me prior to your deposition</p> <p>2 today?</p> <p>3 A I read the CPS memos.</p> <p>4 Q Your CPS memos or everyone's CPS memo?</p> <p>5 A CPS memos back to about November of '99.</p> <p>6 Q Not just the ones that dealt with your</p> <p>7 involvement; is that correct?</p> <p>8 A Correct.</p> <p>9 Q Have you looked at or reviewed anything else?</p> <p>10 A No.</p> <p>11 Q Have you reviewed any deposition transcripts?</p> <p>12 A No.</p> <p>13 Q Have you watched any deposition videotapes?</p> <p>14 A No.</p> <p>15 Q Have you met with anyone to prepare your</p> <p>16 deposition testimony today?</p> <p>17 A Mr. O'Neill.</p> <p>18 Q And when did you meet with Mr. O'Neill?</p> <p>19 A Wednesday.</p> <p>20 Q Were you provided any additional materials while</p> <p>21 you were meeting with Mr. O'Neill on Wednesday?</p> <p>22 A No.</p> <p>23 Q Has any of the materials that were in this file</p> <p>24 been removed?</p> <p>25 A There is some communication with the legal</p>	<p style="text-align: right;">Page 9</p> <p>1 communicate with me.</p> <p>2 Q So if a reserve is going to be increased as a</p> <p>3 result of litigation they would communicate with</p> <p>4 you?</p> <p>5 A Yes.</p> <p>6 Q Is there any other reason for you to communicate</p> <p>7 with the legal department?</p> <p>8 A Other than reserving issues?</p> <p>9 Q Other than what you've just indicated?</p> <p>10 A No.</p> <p>11 Q Were you communicating with the legal department</p> <p>12 by way of e-mail on any issue in this case that</p> <p>13 was removed from this file in anything other than</p> <p>14 reserves?</p> <p>15 MR. O'NEILL: Objection.</p> <p>16 That's calling for privileged communication.</p> <p>17 Don't answer the question.</p> <p>18 BY MR. McKENNA:</p> <p>19 Q Have you reviewed your transcript of the</p> <p>20 deposition I took of you last year?</p> <p>21 A No.</p> <p>22 Q All right. When I deposed you the last time, you</p> <p>23 said that your involvement on files in the reserve</p> <p>24 department involved you reviewing materials and</p> <p>25 setting reserves so that the claims were properly</p>

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<p style="text-align: right;">Page 10</p> <p>1 reserved for future pay out?</p> <p>2 A Correct.</p> <p>3 Q Is that what you still do?</p> <p>4 A Yes.</p> <p>5 Q You indicated that in the reserves department you</p> <p>6 would make recommendations to adjusters, but you</p> <p>7 were not allowed to follow-up those</p> <p>8 recommendations as it related to payment of</p> <p>9 benefits if they were unpaid or underpaid and you</p> <p>10 noticed them. Is that still true?</p> <p>11 A Would you repeat that?</p> <p>12 Q Sure.</p> <p>13 Do you recall that as part of</p> <p>14 your job you would have communication regularly</p> <p>15 with adjusters?</p> <p>16 A Not regularly.</p> <p>17 Q Well, by "regularly" for me, regularly what I'm</p> <p>18 talking about is your regular intervals with</p> <p>19 adjusters on files. You would review these files</p> <p>20 every six months or every year on that type of</p> <p>21 regular basis?</p> <p>22 A Yes.</p> <p>23 Q That's what I mean by regular.</p> <p>24 A Okay.</p> <p>25 Q I'm not saying you did it every day on the same</p>	<p style="text-align: right;">Page 12</p> <p>1 that are owed that haven't been paid and the</p> <p>2 reserves would increase in the future?</p> <p>3 A Yes.</p> <p>4 Q I asked you do you communicate that information to</p> <p>5 the insureds. And at the time that I asked you</p> <p>6 that before I believe your answer was, no, you</p> <p>7 don't communicate with insureds?</p> <p>8 A Correct.</p> <p>9 Q And did you communicate with the insureds on this</p> <p>10 case?</p> <p>11 A No.</p> <p>12 Q So if you were increasing benefits because you</p> <p>13 believe there -- strike that.</p> <p>14 If you're increasing reserves</p> <p>15 because you believe there would be an increase in</p> <p>16 benefit pay out in the future, and that benefit</p> <p>17 pay out doesn't occur, you don't reduce the</p> <p>18 reserves, do you?</p> <p>19 A I might or I might not.</p> <p>20 Q Well, if your increasing reserves is to reflect</p> <p>21 what should be paid as an hourly rate, and you</p> <p>22 stop advising adjusters because you believe they</p> <p>23 were properly trained but they don't increase the</p> <p>24 payment to the insured, do you still leave the</p> <p>25 reserves where they were?</p>
<p style="text-align: right;">Page 11</p> <p>1 file.</p> <p>2 When you would do that, you</p> <p>3 would review the file and you were checking for</p> <p>4 financial information as it would affect reserves,</p> <p>5 correct?</p> <p>6 A Correct.</p> <p>7 Q And if you found something that was inaccurate,</p> <p>8 you would communicate with the adjuster handling</p> <p>9 the file?</p> <p>10 A I'm not sure what you mean.</p> <p>11 Q Well, if you saw that there were benefits that</p> <p>12 were underpaid or unpaid, you would communicate</p> <p>13 with the adjuster and indicate to the adjuster</p> <p>14 what the Auto Club paid for that type of benefit?</p> <p>15 A Yes.</p> <p>16 Q And then you were told to stop doing that?</p> <p>17 A No, I wasn't told to stop doing that. I discussed</p> <p>18 that with my boss in 2001 after everybody had</p> <p>19 homecare training. And I said I didn't feel the</p> <p>20 need to do that, everybody had all the information</p> <p>21 that I had.</p> <p>22 Q You on this particular file -- well, strike that.</p> <p>23 I had asked you previously</p> <p>24 about setting reserves when you increased the</p> <p>25 reserve because you believe there are benefits</p>	<p style="text-align: right;">Page 13</p> <p>1 A If I had increased it --</p> <p>2 Q Yes.</p> <p>3 A -- and they didn't increase it up to that point, I</p> <p>4 would probably leave it there for awhile to see if</p> <p>5 an increase was coming through.</p> <p>6 Q Is there anything other than the Auto Club telling</p> <p>7 you not to that would prevent you from sending a</p> <p>8 letter to the insureds advising them that the</p> <p>9 current rate the Auto Club pays for that level of</p> <p>10 benefit is higher than what they're getting?</p> <p>11 A No.</p> <p>12 Q Can you look through your files there, ma'am, and</p> <p>13 see if you can find an e-mail that's dated</p> <p>14 February 20th, 2002?</p> <p>15 A I don't see an e-mail.</p> <p>16 Q When we started the deposition I asked you if that</p> <p>17 file contained all of the materials that you had</p> <p>18 in this case you said, yes, except for e-mails</p> <p>19 that were removed?</p> <p>20 A Yes.</p> <p>21 Q And I asked you if the e-mails that were removed</p> <p>22 dealt with only litigation matters?</p> <p>23 A Yes.</p> <p>24 Q You said that that was all that Mr. O'Neill</p> <p>25 removed was litigation related e-mails?</p>

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<p style="text-align: right;">Page 14</p> <p>1 A Yes. 2 (A DOCUMENT WAS MARKED AS 3 DEPOSITION EXHIBIT NUMBER 1) 4 BY MR. McKENNA: 5 Q Ma'am, let me show you what's been marked as 6 Exhibit Number 1. That's an e-mail from -- it 7 says from Andrew Kurtinaitis to you regarding 8 George Williams on February 20th at 2:15. And 9 there's below that is a printout of an e-mail sent 10 from you on February 20th, to Mr. Kurtinaitis at 11 2:10. So in other words this appears to indicate 12 that yours was sent at 2:10 and he responded at 13 2:15. 14 A Okay. 15 Q It's been marked as Exhibit Number 1. 16 That's not in your file? 17 A No. 18 Q Are there any other documents like that that 19 Mr. O'Neill removed from your file? 20 MR. O'NEILL: Let me object. 21 Let me just object to what Counsel is implying 22 here. 23 Counsel's question is assuming 24 that this document was in her file and was removed 25 and there's no foundation for that.</p>	<p style="text-align: right;">Page 16</p> <p>1 THE WITNESS: I never made 2 copies of the e-mails I sent. 3 BY MR. McKENNA: 4 Q The file that you have here, e-mails that would be 5 in there that weren't part of the purple file, did 6 you regularly destroy them? 7 A Yes. 8 Q Could you hand me that back, please. 9 Can you look through your file 10 then, ma'am, for February 20th, 2002, and let me 11 know what increase in reserves occurred, in other 12 words can you show me the documentation that would 13 support an increase in reserves? 14 A What date was that again? 15 Q February 20th, 2002. It may be documentation just 16 prior to that or just subsequent to that date. 17 A Okay. This is the status. 18 (A DOCUMENT WAS MARKED AS 19 DEPOSITION EXHIBIT NUMBER 2) 20 BY MR. McKENNA: 21 Q Can you find the -- you said this is a status. 22 That's a report that I've had marked as Exhibit 2. 23 Can you find me the status 24 report that was prepared by you just prior to 25 Exhibit Number 2?</p>
<p style="text-align: right;">Page 15</p> <p>1 BY MR. McKENNA: 2 Q Ma'am, that is an e-mail that's part of -- that 3 you generated as part of your job at AAA, correct? 4 A I didn't make a copy of it. 5 Q I didn't ask you that. 6 That is an e-mail that is part 7 of the file for what you did at AAA, it's from you 8 to Mr. Kurtinaitis? 9 A Right. 10 Q E-mails we discussed previously in another 11 deposition would go into a file called a purple 12 file. Do you recall telling me that? 13 A E-mails communications go into legal, go into a 14 purple file. 15 Q And this is an e-mail that wouldn't be part of the 16 purple file then you're saying? 17 A Correct. 18 Q Can you explain for me and the Judge why that's 19 not in your file today? 20 MR. O'NEILL: Just so I'm 21 clear, when you're saying "why that's not in your 22 file," you're talking about Exhibit 1? 23 MR. McKENNA: Why Exhibit 1 is 24 not in her file. 25 MR. O'NEILL: Okay.</p>	<p style="text-align: right;">Page 17</p> <p>1 (A DOCUMENT WAS MARKED AS 2 DEPOSITION EXHIBIT NUMBER 3) 3 BY MR. McKENNA: 4 Q I've had marked as Exhibit Number 3 the MCCA 5 status report dated 9-11-2001; is that correct? 6 A Yes. 7 Q Can I see that again, please. 8 There's a front and a back 9 page to this document? 10 A Yes. 11 Q Is this document completely prepared and created 12 by you? 13 A Yes. 14 Q On the document itself it has a "describe the 15 program for future management of this case?" 16 A Yes. 17 Q And then there's information that's handwritten 18 there. Is that your handwriting? 19 A Yes. 20 Q So you would have to have received medical records 21 in order to be able to complete that portion? 22 A Not necessarily. 23 Q Well, if it says management of the case and you're 24 talking about a nurse, visits, prescriptions, 25 supplies, equipment, how would you know whether or</p>

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<p>1 not that information was accurate?</p> <p>2 A Based on the CPS memos.</p> <p>3 Q So you're relying on the information provided on</p> <p>4 the CPS screens?</p> <p>5 A If I had medical reports I would have reviewed</p> <p>6 them, but I may not have necessarily had them.</p> <p>7 Q Assuming you have them you would rely on them, but</p> <p>8 in addition you would look at CPS screens and rely</p> <p>9 on the CPS screens?</p> <p>10 A Yes.</p> <p>11 Q Is it part of your job to rely on CPS screens?</p> <p>12 A Yes.</p> <p>13 Q The information that is contained on the CPS</p> <p>14 screens relative to claims handling, is that</p> <p>15 something that is a fundamental part of your job?</p> <p>16 A What do you mean, the information as far as claim</p> <p>17 handling?</p> <p>18 Q For example if the claims adjuster makes a</p> <p>19 decision to pay or to deny a benefit or the rate</p> <p>20 at which they pay benefits, is that the type of</p> <p>21 information that you typically rely upon in doing</p> <p>22 your job?</p> <p>23 A Yes.</p> <p>24 Q Is that a fundamental part of your job in looking</p> <p>25 at the CPS screens and relying on them?</p>	<p>1 says "Current Medical Reports Attached" there's no</p> <p>2 box checked?</p> <p>3 A Okay.</p> <p>4 Q Is that correct?</p> <p>5 A Correct.</p> <p>6 Q If you had received medical reports, you would</p> <p>7 check yes to that box?</p> <p>8 A I probably just wrote on there.</p> <p>9 Did I write on there current</p> <p>10 medical reports, is that what you're saying?</p> <p>11 Q No. There's a box that says "Current Medical</p> <p>12 Reports Attached." There's another little check</p> <p>13 mark box there that says yes and it's unchecked.</p> <p>14 A I don't think I used to use the box. I just wrote</p> <p>15 in the words "report attached."</p> <p>16 Q Below that has a -- you can use another one for</p> <p>17 reference. You got one right there.</p> <p>18 Below that is "benefits paid</p> <p>19 to date all" and this is cut off, "claimants?"</p> <p>20 A Yes.</p> <p>21 Q And then it has an amount?</p> <p>22 A Yes.</p> <p>23 Q "Annual Cost Projections From Date Of This</p> <p>24 Report," and then you wrote on this one, "3 years"</p> <p>25 is that out?</p>
Page 19	Page 21
<p>1 A Yes.</p> <p>2 Q So that information put on the CPS screens in</p> <p>3 order for you to do your job would have to be</p> <p>4 accurate?</p> <p>5 A Yes.</p> <p>6 Q Truthful?</p> <p>7 A Yes.</p> <p>8 Q Have you ever had discussions with adjusters that</p> <p>9 the information that they were providing to you</p> <p>10 through the CPS screens was not accurate?</p> <p>11 A No.</p> <p>12 Q Have you had a discussion with an adjuster or</p> <p>13 adjusters as to what information they were</p> <p>14 required to put in the CPS memos?</p> <p>15 A On occasional I will call and ask for additional</p> <p>16 information.</p> <p>17 Q Is there a procedure, a policy that the Auto Club</p> <p>18 has as to what information is to be put into CPS</p> <p>19 memos by the adjusters?</p> <p>20 A Not that I know of.</p> <p>21 Q Have you been trained on the type of information</p> <p>22 or the procedure to put the type of information on</p> <p>23 the CPS screens?</p> <p>24 A No.</p> <p>25 Q In the report dated 9-11-2001, at the bottom it</p>	<p>1 A "Three years at."</p> <p>2 Q "Three years at."</p> <p>3 So you're predicting three</p> <p>4 years of payments at just under \$60,000.00?</p> <p>5 A Correct.</p> <p>6 Q What is the basis if the \$60,000.00 payment?</p> <p>7 A We were projecting 4,000 for medical, and then the</p> <p>8 other category we were projecting 55,250. And</p> <p>9 under other, that could be nursing care, equipment</p> <p>10 or home modifications.</p> <p>11 Q At the time that you were preparing this document</p> <p>12 where you say 4000 medical, that's talking about</p> <p>13 medical supplies or equipment?</p> <p>14 A Doctor visits, X-rays, anything of that type.</p> <p>15 Q Not medical equipment?</p> <p>16 A No.</p> <p>17 Q Not medical -- does it include prescriptions?</p> <p>18 A It includes prescriptions.</p> <p>19 Q All right. The other in the category on the back</p> <p>20 of the document would include attendant care?</p> <p>21 A Yes.</p> <p>22 Q Now, at the time that this was prepared, are you</p> <p>23 aware of anything other than attendant care that</p> <p>24 was being provided that would exceed \$4000.00 in</p> <p>25 the year?</p>

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<p style="text-align: right;">Page 22</p> <p>1 A No.</p> <p>2 Q So your understanding is that this \$55,250.00</p> <p>3 amount you put in here would be primarily for</p> <p>4 attendant care and medical service?</p> <p>5 A Yes.</p> <p>6 Q Then on the front of the document simply doing the</p> <p>7 math, you've multiplied 59,250 by 3 to come up</p> <p>8 with the 177?</p> <p>9 A Correct.</p> <p>10 Q And whatever the \$4000.00, in other words you've</p> <p>11 added the entire total times 3 and that's your</p> <p>12 amount?</p> <p>13 A Right.</p> <p>14 Q Okay. And down here where it says "totals" on the</p> <p>15 far left --</p> <p>16 A Yes.</p> <p>17 Q -- you've got the same amount that you had at the</p> <p>18 top that says, "All Claimants Allowable Expense?"</p> <p>19 A Correct.</p> <p>20 Q What does that refer to?</p> <p>21 A The all claimants allowable expense, if there had</p> <p>22 been multiple people injured on this loss, that</p> <p>23 top figure would include all the medical expenses</p> <p>24 paid for everyone involved in the loss.</p> <p>25 Q And this is just for Mr. Williams?</p>	<p style="text-align: right;">Page 24</p> <p>1 A Correct.</p> <p>2 Q You are also making a decision as to whether or</p> <p>3 not his treatment and benefits will be for his</p> <p>4 lifetime?</p> <p>5 A Correct.</p> <p>6 Q And then you were trying to project the costs of</p> <p>7 those benefits over his lifetime, in this case on</p> <p>8 a three year basis?</p> <p>9 A Correct.</p> <p>10 Q You did not change anything with respect to his</p> <p>11 life expectancy on Exhibit Number 3?</p> <p>12 A No.</p> <p>13 Q But there is nowhere on Exhibit Number 3 that</p> <p>14 would indicate what you believed his life</p> <p>15 expectancy to be?</p> <p>16 A I'm not sure what you're asking me.</p> <p>17 Q On this document you haven't written down his</p> <p>18 current age?</p> <p>19 A No, his birth date is up there.</p> <p>20 Q But you haven't written down what you expect his</p> <p>21 life expectancy to be for purposes of reserves?</p> <p>22 A At this point it was three years.</p> <p>23 Q So you are saying from that point in 2001, you</p> <p>24 expected him to live three years?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 23</p> <p>1 A Yes.</p> <p>2 Q On the top of the form it has "Injury." And</p> <p>3 you've written in there, actually you've typed in</p> <p>4 there, "skull fracture, pelvic fracture, GI</p> <p>5 bleed?"</p> <p>6 A Correct.</p> <p>7 Q Then it has "Lifetime Treatment" and you have</p> <p>8 "Yes?"</p> <p>9 A Yes.</p> <p>10 Q "Shortened Life Expectancy," you indicated "No?"</p> <p>11 A Correct.</p> <p>12 Q So you're doing an actuarial analysis on the</p> <p>13 amount of money to be paid into the future, also</p> <p>14 doing one based on his current life expectancy?</p> <p>15 MR. O'NEILL: Objection vague.</p> <p>16 You're asking the Witness to speculate, no</p> <p>17 foundation.</p> <p>18 Go ahead.</p> <p>19 THE WITNESS: What exactly do</p> <p>20 you mean by "actuarial?"</p> <p>21 BY MR. McKENNA:</p> <p>22 Q You're making a decision as it relates to what the</p> <p>23 reserves will be, what you need for reserves, and</p> <p>24 you're basing that on what you expect his life</p> <p>25 expectancy to be?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q And can you tell me is that a rated age?</p> <p>2 A I don't know what that means.</p> <p>3 Q How is it that you determine that he would live</p> <p>4 three years?</p> <p>5 A The MRR which is our calculation tool has a life</p> <p>6 expectancy built into it and that projected three</p> <p>7 years?</p> <p>8 Q What is your MRR?</p> <p>9 A It's medical reserve review.</p> <p>10 Q Is that a program?</p> <p>11 A Yes.</p> <p>12 Q Do you know what the basis of the medical reserve</p> <p>13 review program calculation is for Mr. Williams'</p> <p>14 age?</p> <p>15 A No.</p> <p>16 Q Have you heard the term rated age?</p> <p>17 A No.</p> <p>18 Q "Describe Claimant's Present Condition and Level</p> <p>19 of Care Being Provided," is another box for</p> <p>20 information that was fill out by you on this form;</p> <p>21 is that correct?</p> <p>22 A Correct.</p> <p>23 Q At nowhere on there does it indicate what is being</p> <p>24 paid hourly; is that correct?</p> <p>25 A That's correct.</p>

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<p>1 Q Do you review the information to make sure that 2 it's accurate that's provided to you? 3 A What do you mean review it to make sure it's 4 accurate? 5 Q Well, you said that you have CPS memos? 6 A Yes. 7 Q Do you ever review the file materials to see that 8 there is, in fact, reasonable medical proof to 9 substantiate the need for these payments? 10 MR. O'NEILL: Let me just ask 11 for a clarification. 12 Are you distinguishing file 13 materials from CPS notes? 14 MR. McKENNA: I'm 15 distinguishing file materials as being anything in 16 the AAA file. 17 THE WITNESS: I never look at 18 the AAA file. 19 BY MR. McKENNA: 20 Q Do you ever ask that they provide you additional 21 information from the file? 22 A Every six months when we do the status we ask them 23 to submit any medical reports that they have. 24 Q So a medical report would include a prescription 25 for attendant care?</p>	<p>1 Q Well, are you aware of there having been issues in 2 the past where you were required to provide 3 additional information to the MCCA to justify your 4 reserves? 5 A I have not had to supply additional information to 6 justify their reserves. Usually if they ask for 7 additional information it is to support payments. 8 Q All right, I'm sorry. 9 A Reimbursement tool. 10 Q There's two things that go to MCCA. 11 You have to send them a 12 reserve for future projected payments, correct? 13 A Correct. 14 Q And there's also a report that goes for 15 reimbursement of payments that have already been 16 made? 17 A Right. 18 Q Do you keep in your file when you get medical 19 reports or information from a previous report, do 20 you keep that information in the file that you 21 have, your reserve file? 22 A We keep it only -- it's just a holding place there 23 until the next status is done and then it's sent 24 to MCCA and we do not keep a copy of it. 25 Q Would you agree that the reporting of sixteen</p>
Page 27	Page 29
<p>1 A Yes. 2 Q So you would have that information available to 3 you from six months previous? 4 A If they sent it to me. 5 Q If they send it to you? 6 A Yes. 7 Q So if they sent you a medical prescription that 8 calls for twenty-four hours of attendant care, you 9 would have that in your file and use that to 10 determine reserves? 11 A Yes. It would be in my file and then I would send 12 it to MCCA with the status. 13 Q But you would have that twenty-four hour 14 prescription and you would base the dollar amounts 15 for your reserves on that hourly amount? 16 A Yes. 17 Q And then you would provide that to the MCCA so 18 that they could see what your reserves were based 19 on? 20 A Yes. 21 Q And you do that because if I don't supply the 22 correct information to MCCA, you don't get 23 reimbursed, the Auto Club doesn't get reimbursed? 24 A I don't handle the reimbursement portion, but 25 probably if there was an issue.</p>	<p>1 hours of aide care per day if there was a 2 twenty-four hour prescription would be inaccurate? 3 A Yes. 4 Q Does the Auto Club routinely pay less than what 5 the prescription calls for? 6 A I don't believe so. 7 Q When you have information that there's twenty-four 8 hours of aide care and it's being paid at sixteen 9 hours, would you increase the reserves based on 10 the additional eight hours? 11 A Not if they weren't paying it. 12 Q So even if you had a prescription as part of the 13 medical records that you had available to you that 14 calls for twenty-four hours of aide care and it 15 was only being paid at sixteen hours, you still 16 wouldn't increase your reserves? 17 A No. 18 Q Would you communicate to the adjuster and ask why 19 they're paying less than the prescription? 20 A I would probably refer that to a manager. 21 Q Would you refer that to a manager by way of a CPS 22 memo? 23 A No, I usually either call the manager or send an 24 e-mail. 25 Q So there are other e-mails that you regularly or</p>

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<p>1 routinely take out other than dealing with the</p> <p>2 legal department?</p> <p>3 A Yes.</p> <p>4 Q Those e-mails you destroy?</p> <p>5 A Yes.</p> <p>6 Q And by the way, no one at the Auto Club has never</p> <p>7 told you to not destroy e-mails dealing with</p> <p>8 issues of underpayment or nonpayment of benefits,</p> <p>9 have they?</p> <p>10 A No.</p> <p>11 Q All right. If we switch to Exhibit Number 2, this</p> <p>12 is approximately five or six months later than</p> <p>13 Exhibit Number 3. The date on this is 2-20-02.</p> <p>14 It's the same type of a</p> <p>15 document, same type of report, correct?</p> <p>16 A Correct.</p> <p>17 Q The information on there also contains your</p> <p>18 handwriting?</p> <p>19 A Yes.</p> <p>20 Q You didn't check off the box on this one, again</p> <p>21 you wrote no reports?</p> <p>22 A Okay.</p> <p>23 Q So that means there's nothing attached?</p> <p>24 A Right.</p> <p>25 Q So Exhibit Number 2, has no reports attached.</p>	<p>1 providing twenty-four hour care but only being</p> <p>2 paid for sixteen in your September 11th, 2001</p> <p>3 report?</p> <p>4 A I don't know.</p> <p>5 Q Well, you would have reviewed the medical records</p> <p>6 and reports, right?</p> <p>7 A Right.</p> <p>8 Q You would have been aware of the condition that</p> <p>9 Mr. Williams was in following his accident?</p> <p>10 A No, not particularly right following the accident,</p> <p>11 because I never read the file that far back.</p> <p>12 Q I'm sorry, I didn't mean to be that specific as to</p> <p>13 the day following the accident.</p> <p>14 A Okay.</p> <p>15 Q From the time of his accident until the time of</p> <p>16 your report, you said you would have been aware of</p> <p>17 his medical condition because that would be part</p> <p>18 of your job duties to know that?</p> <p>19 A It's whatever information was in the file I would</p> <p>20 be aware.</p> <p>21 Q So the information in the file that Mr. Williams</p> <p>22 had sustained a catastrophic injury, was unable to</p> <p>23 be left alone, couldn't drive, couldn't walk</p> <p>24 without assistance, had a traumatic brain injury,</p> <p>25 that information would have been available to you?</p>
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<p>1 Exhibit Number 3 the one done</p> <p>2 five or six months earlier had attached medical</p> <p>3 reports?</p> <p>4 A Correct.</p> <p>5 Q When you don't attach medical reports is that an</p> <p>6 indication that there was nothing new?</p> <p>7 A Not necessarily.</p> <p>8 Q Just that you haven't attached any?</p> <p>9 A I just didn't have anything to send them.</p> <p>10 Q If you wanted medical reports you would</p> <p>11 communicate that to the adjuster?</p> <p>12 A Yes.</p> <p>13 Q You would use CPS memos for that or e-mails?</p> <p>14 A I would put that right in my CPS memos when I do</p> <p>15 the status.</p> <p>16 Q In February of 2002 under "Describe claimants</p> <p>17 condition and level of care being provided." It</p> <p>18 says, "The family provides twenty-four hour care."</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q All right. And in Exhibit Number 3 from five</p> <p>22 months earlier, it says sixteen hours?</p> <p>23 A Correct.</p> <p>24 Q Is it your understanding based on your review of</p> <p>25 the medical reports that the family was, in fact,</p>	<p>1 A Yes.</p> <p>2 Q And that typically is the type -- a description of</p> <p>3 the type of injury that would require twenty-four</p> <p>4 hour care, isn't it?</p> <p>5 MR. O'NEILL: Objection lack</p> <p>6 of foundation.</p> <p>7 THE WITNESS: Not always.</p> <p>8 BY MR. McKENNA:</p> <p>9 Q Well, you have to make an assessment, don't you,</p> <p>10 in order to do your job correctly as to whether or</p> <p>11 not this is a person that's going to need a level</p> <p>12 of care for the rest of their life, don't you?</p> <p>13 MR. O'NEILL: Objection.</p> <p>14 There's no foundation that this Witness is capable</p> <p>15 of making a medical assessment. You're asking her</p> <p>16 to speculate.</p> <p>17 Go ahead.</p> <p>18 THE WITNESS: I would just be</p> <p>19 estimating.</p> <p>20 BY MR. McKENNA:</p> <p>21 Q I understand that.</p> <p>22 That's part of your job to do</p> <p>23 that?</p> <p>24 A Right.</p> <p>25 Q In fact, your estimate is and when you fill out</p>

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<p>1 these forms that this is lifetime?</p> <p>2 A Correct.</p> <p>3 Q You've indicated lifetime. So you have received</p> <p>4 some level of training from the Auto Club to be</p> <p>5 able to make these determinations on these</p> <p>6 reports?</p> <p>7 A Just a claim handling experience.</p> <p>8 Q Whatever it is, you've received some level of</p> <p>9 training. The Auto Club entrusts you to make</p> <p>10 these assessments?</p> <p>11 A Yes.</p> <p>12 Q And then these assessments are passed along to the</p> <p>13 Michigan Catastrophic Claims Association and they</p> <p>14 rely on them?</p> <p>15 A Yes.</p> <p>16 Q So you are a person that the Auto Club trusts to</p> <p>17 make assessments on whether someone needs a</p> <p>18 lifetime of benefits?</p> <p>19 A Yes.</p> <p>20 Q And you are someone that is entrusted as part of</p> <p>21 your job duties to determine what level and what</p> <p>22 rate or type of care they are currently in need of</p> <p>23 and will need in the future?</p> <p>24 MR. O'NEILL: Objection lack</p> <p>25 of foundation.</p>	<p>1 A Okay.</p> <p>2 Q You have been given whatever training they've</p> <p>3 given you to do your job?</p> <p>4 A Correct.</p> <p>5 Q And they expect you with the training they have</p> <p>6 given you to make assessments based on your review</p> <p>7 of medical information and reports and CPS screens</p> <p>8 as to what this person currently is getting and</p> <p>9 will need in the future so that you can set a</p> <p>10 reserve?</p> <p>11 MR. O'NEILL: Objection lack</p> <p>12 of foundation.</p> <p>13 Go ahead.</p> <p>14 THE WITNESS: Well, we're</p> <p>15 projecting as best we can what we anticipate is</p> <p>16 going to be paid in the future.</p> <p>17 MR. McKENNA: Could you answer</p> <p>18 my question.</p> <p>19 THE WITNESS: Would you repeat</p> <p>20 the question, please?</p> <p>21 MR. McKENNA: Read it back to</p> <p>22 her.</p> <p>23 (QUESTION READ BACK AS FOLLOWS:</p> <p>24 "And they expect you with the</p> <p>25 training they have given you</p>
Page 35	Page 37
<p>1 THE WITNESS: No, I don't make</p> <p>2 those decisions.</p> <p>3 BY MR. McKENNA:</p> <p>4 Q I'm not saying you made the decision. You make an</p> <p>5 assessment. The word I used was assessment.</p> <p>6 You report based on your</p> <p>7 assessment of need currently and in the future?</p> <p>8 MR. O'NEILL: Objection lack</p> <p>9 of foundation. There's no foundation that this</p> <p>10 Witness has any expertise to make a medical</p> <p>11 assessment as to medical needs.</p> <p>12 Subject to that go ahead.</p> <p>13 BY MR. McKENNA:</p> <p>14 Q Ma'am, so that the record's clear, I'm not</p> <p>15 suggesting you're making a medical assessment of</p> <p>16 anything.</p> <p>17 You're not a medical doctor,</p> <p>18 correct?</p> <p>19 A Correct.</p> <p>20 Q But you have been trained by the Auto Club to make</p> <p>21 assessments of medical information that's</p> <p>22 available in a file either by a report or records,</p> <p>23 correct?</p> <p>24 A No, there's been no special training.</p> <p>25 Q I didn't say you had any special training.</p>	<p>1 to make assessments based on</p> <p>2 your review of medical</p> <p>3 information and reports and</p> <p>4 CPS screens as to what this</p> <p>5 person currently is getting</p> <p>6 and will need in the future</p> <p>7 so that you can set a</p> <p>8 reserve?")</p> <p>9 THE WITNESS: Well, I'm not</p> <p>10 comfortable with the question. It makes me think</p> <p>11 you're saying that I'm making the assessment of</p> <p>12 their medical condition.</p> <p>13 BY MR. McKENNA:</p> <p>14 Q Ma'am, I've told you pointblank I'm not asking you</p> <p>15 that.</p> <p>16 A Okay.</p> <p>17 Q You are as part of your job expected at the Auto</p> <p>18 Club, entrusted by them to review medical</p> <p>19 information, correct?</p> <p>20 A Correct.</p> <p>21 Q You're expected to review reports, correct?</p> <p>22 A Correct.</p> <p>23 Q You are expected to review those reports, the</p> <p>24 medical condition, input information into an MRR</p> <p>25 and project future payments and set reserves based</p>

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<p>1 on that, correct?</p> <p>2 A Correct.</p> <p>3 Q Then information that you review has to be</p> <p>4 accurate to do your job?</p> <p>5 A Correct.</p> <p>6 Q When you see that there's information that's</p> <p>7 inaccurate, it will make your job inaccurate?</p> <p>8 A Correct.</p> <p>9 Q When you find inaccurate information, you</p> <p>10 communicate that either to the adjuster or to a</p> <p>11 manager?</p> <p>12 A Correct.</p> <p>13 Q So that you can set accurate reserves?</p> <p>14 A Correct.</p> <p>15 Q Are you familiar with the one year back rule of</p> <p>16 the No-Fault Act?</p> <p>17 A Yes.</p> <p>18 Q And you have to take that into consideration as</p> <p>19 well when you're setting reserves, don't you?</p> <p>20 A If there was an issue, yes.</p> <p>21 Q All right. Well, would you agree that there's an</p> <p>22 issue when in one report they're only being paid</p> <p>23 sixteen hours and in the next report they're being</p> <p>24 paid twenty-four hours for the same level of care?</p> <p>25 A I believe Doctor Dobbel (sp) decreased the</p>	<p>1 When you see a record that</p> <p>2 indicates there's twenty-four hours, would you</p> <p>3 increase the twenty-four hours without seeing a</p> <p>4 prescription, in other words would you increase</p> <p>5 your reserves reflecting twenty-four hours without</p> <p>6 seeing a prescription?</p> <p>7 A If it was indicated in CPS that they had a report</p> <p>8 or that they were going to increase it to</p> <p>9 twenty-four hours I would, yes.</p> <p>10 Q So do you consider the CPS screens then to be</p> <p>11 reliable information?</p> <p>12 A Yes.</p> <p>13 Q Do you consider that to be reasonable proof of</p> <p>14 what is being paid?</p> <p>15 MR. O'NEILL: Objection vague.</p> <p>16 Go ahead.</p> <p>17 THE WITNESS: Well, what do</p> <p>18 you mean "proof?"</p> <p>19 BY MR. McKENNA:</p> <p>20 Q Well, you understand that under the No-Fault Act</p> <p>21 and under the policy there has to be reasonable</p> <p>22 proofs submitted in order for a benefit to be</p> <p>23 paid?</p> <p>24 A Correct.</p> <p>25 Q So when you read in a CPS screen that they're</p>
Page 39	Page 41
<p>1 homecare for awhile and that's why it was being</p> <p>2 paid at sixteen hours.</p> <p>3 Q Do you have a report from Doctor Dobbel decreasing</p> <p>4 it?</p> <p>5 A I thought I read it in the CPS memos.</p> <p>6 Q Do you have a report from Doctor Dobbel decreasing</p> <p>7 it?</p> <p>8 A Do I have it?</p> <p>9 Q Yes.</p> <p>10 A No.</p> <p>11 Q Do you have a prescription increasing it?</p> <p>12 A On this one? No.</p> <p>13 Q All right. Are you allowed to make assumptions on</p> <p>14 whether something is increased or decreased or are</p> <p>15 you supposed to have reasonable proof in order to</p> <p>16 do your job?</p> <p>17 MR. O'NEILL: Objection vague,</p> <p>18 compound.</p> <p>19 THE WITNESS: No, I make</p> <p>20 assumptions.</p> <p>21 BY MR. McKENNA:</p> <p>22 Q And if you make assumptions that are wrong it</p> <p>23 affects your job, doesn't it?</p> <p>24 A Yes.</p> <p>25 Q If you make assumptions -- strike that.</p>	<p>1 paying a certain rate or a certain amount of</p> <p>2 hours, do you consider that to be reasonable proof</p> <p>3 for purposes of you doing your job?</p> <p>4 A Yes.</p> <p>5 Q The hourly rate that you were reserving at on</p> <p>6 September 1st, 2001, what was that?</p> <p>7 A I don't know.</p> <p>8 Q How could you set a reserve if you didn't know</p> <p>9 what the hourly rate was?</p> <p>10 A I probably knew it, but it's not on this form</p> <p>11 anywhere.</p> <p>12 Q Do you have the information anywhere in your file</p> <p>13 that would indicate at the time you did the report</p> <p>14 of September 11, 2001, what the hourly rate was</p> <p>15 that was being paid?</p> <p>16 A No.</p> <p>17 Q How would the MCCA know what the hourly rate was</p> <p>18 for your projected reserves if you didn't indicate</p> <p>19 it?</p> <p>20 A I don't know.</p> <p>21 Q The report marked as Exhibit Number 2 has -- I'm</p> <p>22 sorry, and the date on that is February 2002,</p> <p>23 correct?</p> <p>24 A Correct.</p> <p>25 Q All right. The report there has an increase where</p>

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<p>1 it says there's twenty-four hours being paid 2 relative to the prior report, correct? 3 A Correct. 4 Q And it says it's being paid at \$9.50 per hour? 5 A Correct. 6 Q All right. If it's being currently paid at \$9.50 7 per hour, how did you determine the \$9.50 per hour 8 rate? 9 MR. O'NEILL: Objection. 10 There's no foundation that she's determined any 11 rates. 12 Subject to that go ahead. 13 THE WITNESS: I probably read 14 it in CPS. 15 BY MR. McKENNA: 16 Q In Exhibit Number 1, it says, "Hi, Andy." 17 Do you know Mr. Kurtinaitis? 18 A Yes. 19 Q "Just an fyi --" that would be for your 20 information? 21 A Yes. 22 Q "-- to let you know we are increasing the reserves 23 --" that means you? 24 A Yes. 25 Q "-- by \$341,000 --" That's what you wrote?</p>	<p>1 thousand dollars? 2 A Correct. 3 Q In six months? 4 A Correct. 5 Q And you're projecting an annual payment of 55,000 6 in September of 2001? 7 A Correct. 8 Q But within six months you're saying you've paid 9 over 40,000? 10 A That's correct. 11 Q And there would have to be some basis for that in 12 the file, wouldn't there? 13 A What do you mean "some basis?" 14 Q Well, wouldn't you have to have something that 15 would reflect that there was \$40,000.00 paid out? 16 A The APAC would show any payments that were made. 17 Q So it should support payment of \$40,000.00? 18 A It should, yes. 19 Q And your reserves were set based on a smaller 20 minimal compared to the attendant care medical 21 payment? 22 A Correct. 23 Q In fact, as a percentage it's probably less than 24 ten percent, correct? 25 A Correct.</p>
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<p>1 A Yes. 2 Q Okay. So what was the reserves set at in 3 September of 2001? 4 A We had \$130,125.00 in the net reserve on the date 5 this was done. 6 Q And what was the reserve set in February of 2002? 7 A It was \$95,173.00 and we increased it by 8 \$341,077.00 to a total of \$436,250.00. 9 Q Well, looking at the back of Exhibit Number 3, you 10 said the reserve was set at -- 11 A \$130,125.00. 12 Q All right. And then if we can flip over to 13 Exhibit Number 2 on the back, you have the reserve 14 set here -- where's that number? 15 A With the increase. 16 Q No. Reserve here 1991 is 95,173, correct? 17 A Correct. 18 Q Why are these numbers different from Exhibit 2 to 19 Exhibit 3, where on Exhibit 3 you have it set at 20 131,125 yet on Exhibit 2 you're indicating 95,000, 21 a difference of about \$40,000.00? 22 A Because additional payments have been made and the 23 reserve has gone down. 24 Q Okay. So from September 11, 2001, to February 20, 25 2002, you're reflecting the payment of forty some</p>	<p>1 Q And the annual projected attendant care payments 2 of \$55,000.00 in September would be for twelve 3 months? 4 A Correct. 5 Q Did you check to see why there was \$40,000.00 6 allegedly spent? 7 A I don't remember. 8 Q Your reserve increased by \$341,000.00 as reflected 9 in the e-mail, that would be over what time 10 period? 11 A Okay, I'm not sure I'm understanding your 12 question. 13 Q On the MCCA reporting you indicate that you have 14 reserve changes and you've multiplied it out with 15 a three year life expectancy? 16 A Right. 17 Q So on Exhibit Number 3, that would be a \$59,000.00 18 payment multiplied by 3 to 177,000, approximately? 19 A Correct. 20 Q When you get to your second or your next report 21 Exhibit 2, in the e-mail Exhibit 1 that you said 22 reflects what you wrote or did on Exhibit 2, 23 correct -- 24 A Correct. 25 Q -- when we get to that point and you're saying</p>

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<p>1 we're increasing reserves by 341,000, what number 2 of years does that increase cover? 3 A Five years. 4 Q So if we were to divide 341,000 by 5, it would 5 give us the annual projection that you came up 6 with? 7 A It would give you the annual increase. 8 Q I'm sorry, approximately a \$60,000.00 increase? 9 A Yes. 10 Q And if we continue in your e-mail, that's due to 11 homecare rate increase? 12 A Yes. 13 Q So you're projecting a \$60,000.00 a year increase 14 in homecare? 15 A No, wait. No, I didn't. 16 The projection increased from 17 55 to 50 for the other category to 83,250 to this. 18 Q Ma'am, I'm just dealing with this e-mail that goes 19 to Mr. Kurtinaitis that says we've increased 20 reserves. That means there's an increase in what 21 you're projecting the payments by the Auto Club to 22 the insured or on behalf of the insured to be? 23 A Correct. 24 Q So over five years you're expecting an increase of 25 what was done in September by 341,000, correct?</p>	<p>1 Q Okay. So if you could flip over for me Exhibit 2 Number 3. When we look at the front, this is a 3 five year period, you were paying 59,250? 4 A Right. 5 Q That would be primarily homecare, correct? 6 A Correct. 7 Q And then here there's approximately a \$50,000.00 8 increase? 9 A Correct. 10 Q Now, if we were to take out a calculator and do 11 the math, \$30,000.00 just roughly would be 2000 -- 12 about \$2500.00 per month increase in payments? 13 A I'm sorry, would you say that again? 14 Q If you were to breakdown a \$30,000.00 change 15 annually to a monthly change, it would be 16 approximately a \$2500.00 per month change? 17 A Yes, correct. 18 Q And if that was primarily for attendant care, 19 would you be able to calculate a \$2500.00 a month 20 change and back out a number for the hourly rate 21 that was being paid in September of 2001? 22 A Probably. 23 Q And you just do the reverse math and back that 24 out? 25 A Yes.</p>
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<p>1 A No. That figure -- 2 MR. O'NEILL: No, you answered 3 his question. He can follow-up. 4 BY MR. McKENNA: 5 Q The \$341,000.00 figure that you've indicated to 6 Mr. Kurtinaitis is an increase, is an increase in 7 benefits that you expect to be paid out, correct? 8 A No, that's not correct. 9 Q Why would you set a reserve of 341,000 if it 10 wasn't for benefits that were expected to be paid 11 out? 12 A The 341,000 is the amount that I need to bring the 13 reserve up to the 436,250. The reserve could have 14 been low at the last filing due to additional 15 payments. 16 Q Well, can you find on the last filing in September 17 of 2001, what your reserve amount was set at, that 18 should be on Exhibit Number 3? 19 A Okay. The projections were 177,750. And the 20 reserve was set at 130,125, so the reserve was 21 already low. So we would need to bring it up to 22 this figure for my new projections, we would need 23 to make-up that shortage plus any additional 24 payments that were made between this time and this 25 time.</p>	<p>1 Q Okay. Did you recommend a rate increase for the 2 hourly attendant care that was being paid to 3 Mr. Williams' family? 4 A I don't remember. 5 Q If you did that, that would have been in an e-mail 6 as well? 7 A Yes. 8 Q And, of course, you destroyed those? 9 A Yes. 10 Q And the same thing we had talked about in your 11 other deposition, when you send off these e-mails 12 and the adjuster doesn't take you up on your 13 suggestion, you have no way of following through 14 and enforcing an increase, do you? 15 A No. 16 Q And, of course, if the adjuster were to say that 17 they never received any information regarding an 18 increase and you sent them information by e-mail, 19 that would be destroyed and not kept as a record 20 anywhere? 21 A Correct. 22 Q The records that you sent to the MCCA and the 23 information that's in the file, why is that kept? 24 MR. O'NEILL: Objection. 25 You're asking her to speculate.</p>

13 (Pages 46 to 49)

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<p>1 Go ahead.</p> <p>2 THE WITNESS: The medical</p> <p>3 reports that they send to us?</p> <p>4 BY MR. McKENNA:</p> <p>5 Q No. The documents that you have in front of you,</p> <p>6 those are records that you keep in your file?</p> <p>7 A Yes.</p> <p>8 Q You've been told to keep those, correct?</p> <p>9 A Yes.</p> <p>10 Q So someone at the Auto Club has told you that the</p> <p>11 policy or the procedure for your job is to keep</p> <p>12 these types of records?</p> <p>13 A Yes.</p> <p>14 Q Why have they told you to destroy e-mails?</p> <p>15 MR. O'NEILL: Objection lack</p> <p>16 of foundation that she's been told that.</p> <p>17 Subject to that, go ahead.</p> <p>18 THE WITNESS: That I haven't.</p> <p>19 BY MR. McKENNA:</p> <p>20 Q Why have they told you not to destroy e-mails, in</p> <p>21 other words?</p> <p>22 A They haven't addressed it either way.</p> <p>23 Q Okay. But that's something that would be --</p> <p>24 strike that.</p> <p>25 You've been doing this job for</p>	<p>1 of foundation. You're asking her to speculate.</p> <p>2 THE WITNESS: I don't.</p> <p>3 BY MR. McKENNA:</p> <p>4 Q Where would you get the information on the hourly</p> <p>5 rates, from MMU?</p> <p>6 A Currently they put out a Plante Moran Survey and</p> <p>7 I'm not really sure who headed that up.</p> <p>8 Q Well, if you're talking about a Plante Moran</p> <p>9 Survey, that's something that was done many years</p> <p>10 ago?</p> <p>11 A Correct.</p> <p>12 Q That would be old information?</p> <p>13 A I believe they updated it.</p> <p>14 Q The Plante Moran information has been updated?</p> <p>15 A I believe in 2004.</p> <p>16 Q Well, now we're talking it's two years old?</p> <p>17 A Yes.</p> <p>18 Q You wouldn't want to rely on two year old</p> <p>19 information to pay claims, would you?</p> <p>20 MR. O'NEILL: Objection.</p> <p>21 You're asking her to speculate, this is not her</p> <p>22 job.</p> <p>23 BY MR. McKENNA:</p> <p>24 Q You wouldn't want to rely on two year old</p> <p>25 information to set reserves, would you?</p>
Page 51	Page 53
<p>1 how long?</p> <p>2 A Nine years.</p> <p>3 Q And in that nine years that you've been doing</p> <p>4 this, you've been destroying these e-mails we've</p> <p>5 been talking about?</p> <p>6 A Yes.</p> <p>7 Q And no one has ever told you to save those?</p> <p>8 A No.</p> <p>9 Q And you were deposed in another case that I had</p> <p>10 and we discussed the same thing, destroying</p> <p>11 e-mails?</p> <p>12 A Yes.</p> <p>13 Q And since then no one has told you to stop doing</p> <p>14 that?</p> <p>15 A Correct.</p> <p>16 Q So you still destroyed these e-mails that are</p> <p>17 communications regarding rates and what the hourly</p> <p>18 rates are that are authorized?</p> <p>19 A I don't think I've had any communications since</p> <p>20 that time.</p> <p>21 Q How is it that you in reserves would have</p> <p>22 different or better or more up-to-date information</p> <p>23 on what hourly rates are authorized for attendant</p> <p>24 care than say the adjuster handling the file?</p> <p>25 MR. O'NEILL: Objection lack</p>	<p>1 A Well, I reserve based on what they're paying, so</p> <p>2 it wouldn't be up to me to even keep up with the</p> <p>3 rates anymore.</p> <p>4 Q But you want to have reserves based on what the</p> <p>5 actual payments should be?</p> <p>6 A No, I want to have the reserves set based on what</p> <p>7 they're paying.</p> <p>8 Q So if they're underpaying your reserves would be</p> <p>9 off?</p> <p>10 A I would be reserving for what we're paying.</p> <p>11 Q I understand that, but if it's being underpaid</p> <p>12 your reserves would be low?</p> <p>13 A Yes.</p> <p>14 Q Can you think of a reason why an adjuster paying a</p> <p>15 claim wouldn't know what rate was to be paid?</p> <p>16 A No.</p> <p>17 Q A reasonable prudent adjuster should have that</p> <p>18 information or have it available to them?</p> <p>19 MR. O'NEILL: Objection lack</p> <p>20 of foundation. You're asking the Witness to</p> <p>21 speculate.</p> <p>22 BY MR. McKENNA:</p> <p>23 Q Go ahead.</p> <p>24 A I would assume they would have that available.</p> <p>25 Q You have handled payments for catastrophic injury</p>

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<p style="text-align: right;">Page 54</p> <p>1 files other than this one and Bearden, correct?</p> <p>2 A Correct.</p> <p>3 Q And in projecting reserves for catastrophically</p> <p>4 injured claimants that are traumatically brain</p> <p>5 damaged and are institutionalized, are the</p> <p>6 payments in the reserves on institutionalized</p> <p>7 patients or insureds higher than a file like</p> <p>8 Mr. Williams that's getting homecare from family</p> <p>9 members?</p> <p>10 A Usually.</p> <p>11 Q And it costs the Auto Club less money as far as</p> <p>12 reserves and payments usually for a family</p> <p>13 provided attendant care?</p> <p>14 MR. O'NEILL: Well, let me</p> <p>15 object because you're asking her to compare it to</p> <p>16 something.</p> <p>17 MR. McKENNA: Institutional</p> <p>18 care.</p> <p>19 MR. O'NEILL: Objection lack</p> <p>20 of foundation, vague.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: Usually.</p> <p>23 BY MR. McKENNA:</p> <p>24 Q What is the abbreviation APAC?</p> <p>25 A I don't know.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q Did you ever participate in any interventions?</p> <p>2 A Yes.</p> <p>3 Q And it's my understanding that the Auto Club has</p> <p>4 done at least three interventions in -- well,</p> <p>5 you've been there twelve years?</p> <p>6 A Nine years.</p> <p>7 Q Nine years. So you would have started back in</p> <p>8 19 --</p> <p>9 A September '97.</p> <p>10 Q '97. The first intervention was done after you</p> <p>11 started with the Auto Club?</p> <p>12 A I think they were in the process, yes.</p> <p>13 Q And it's my understanding that they have done at</p> <p>14 least three of those interventions since you've</p> <p>15 been with the company; is that accurate?</p> <p>16 A I think it's two. I remember two.</p> <p>17 Q And those interventions where the Auto Club went</p> <p>18 to each and every branch in the State of Michigan</p> <p>19 with the MMU Department?</p> <p>20 A Yes. Every branch that had a claim department.</p> <p>21 Q And every branch that had a claim department, the</p> <p>22 MMU went through and evaluated only catastrophic</p> <p>23 injury files?</p> <p>24 A Yes.</p> <p>25 Q And as a result of evaluating those catastrophic</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Would you agree that the majority of CPS screens</p> <p>2 that have been produced to me anyway, the ones</p> <p>3 that you've read, deal with you indicating that</p> <p>4 you're sending records that are from the branch to</p> <p>5 MCCA?</p> <p>6 A Yes.</p> <p>7 Q Sort of an administration CPS?</p> <p>8 A Yes.</p> <p>9 Q Did you find any CPS memos dealing with anything</p> <p>10 other than an administrative indication that you</p> <p>11 were going to be sending information along to the</p> <p>12 MCCA?</p> <p>13 A No.</p> <p>14 Q So is it your testimony that even though you are</p> <p>15 aware on a file that payments should be made at a</p> <p>16 higher rate or a higher hourly amount, you will</p> <p>17 set reserves based on what they are paying as</p> <p>18 opposed to what is supposed to be paid?</p> <p>19 A Correct.</p> <p>20 MR. O'NEILL: Objection lack</p> <p>21 of foundation.</p> <p>22 BY MR. McKENNA:</p> <p>23 Q Now, are you aware of interventions that were done</p> <p>24 by the Auto Club?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 57</p> <p>1 injury files, it was determined that there were</p> <p>2 files that were under reserved?</p> <p>3 A Yes.</p> <p>4 Q And that would mean that there were files that</p> <p>5 where there were benefits that were unpaid or</p> <p>6 underpaid?</p> <p>7 A Correct.</p> <p>8 Q And as a result of discovering these unpaid and/or</p> <p>9 underpaid files, what actions, if any, was taken</p> <p>10 to inform the insureds or their families that</p> <p>11 their file had been reviewed and it was discovered</p> <p>12 that there were underpayments or nonpayment of</p> <p>13 benefits that were owed?</p> <p>14 MR. O'NEILL: Objection lack</p> <p>15 of foundation.</p> <p>16 THE WITNESS: I don't know.</p> <p>17 BY MR. McKENNA:</p> <p>18 Q Did anyone at the Auto Club ever tell you that the</p> <p>19 Auto Club informed the insureds that they</p> <p>20 discovered that their benefits were unpaid or</p> <p>21 underpaid?</p> <p>22 A No.</p> <p>23 Q Wouldn't that have been the fair thing to do?</p> <p>24 MR. O'NEILL: Objection</p> <p>25 irrelevant. Her opinion as to what's fair is</p>

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<p style="text-align: right;">Page 58</p> <p>1 irrelevant and this is beyond the scope of the</p> <p>2 Court's Discovery Order. I'm going to instruct</p> <p>3 her not to answer.</p> <p>4 BY MR. McKENNA:</p> <p>5 Q If an insured had asked whether their file had</p> <p>6 been reviewed in an intervention, would you have</p> <p>7 answered that?</p> <p>8 MR. O'NEILL: Objection.</p> <p>9 Don't answer it, it's beyond</p> <p>10 the scope of the Court's Order.</p> <p>11 BY MR. McKENNA:</p> <p>12 Q If Mr. Williams or his family had asked you, would</p> <p>13 you have told them?</p> <p>14 MR. O'NEILL: Same objection.</p> <p>15 Don't answer it.</p> <p>16 BY MR. McKENNA:</p> <p>17 Q Did you tell the Williamses at any time that you</p> <p>18 were handling this file that you were aware of an</p> <p>19 intervention?</p> <p>20 MR. O'NEILL: Objection asked</p> <p>21 and answered.</p> <p>22 Well, don't answer the</p> <p>23 question, it's been asked and answered. And she's</p> <p>24 told you that she's had no communications with</p> <p>25 this claimant.</p>	<p style="text-align: right;">Page 60</p> <p>1 "Were you ever advised that</p> <p>2 unless someone specifically</p> <p>3 asked you about benefits and</p> <p>4 rates that you weren't to</p> <p>5 tell them?</p> <p>6 A. No.</p> <p>7 Q. Have you ever inquired</p> <p>8 whether the insureds are</p> <p>9 being told?</p> <p>10 A. No.")</p> <p>11 THE WITNESS: I was never told</p> <p>12 not to tell them about benefits, but I did inquire</p> <p>13 about incremental rate increases and I was told</p> <p>14 not to address it.</p> <p>15 BY MR. McKENNA:</p> <p>16 Q And that would have been management not to address</p> <p>17 incremental rate increases?</p> <p>18 A Correct.</p> <p>19 Q Who at management told you not to do that?</p> <p>20 A I don't remember which one it was.</p> <p>21 Q By not informing people of incremental rate</p> <p>22 increases, that would be keeping information away</p> <p>23 from the insureds?</p> <p>24 A Yes.</p> <p>25 Q Information that the Auto Club was aware of?</p>
<p style="text-align: right;">Page 59</p> <p>1 MR. McKENNA: It's a different</p> <p>2 question. You're telling her not to answer</p> <p>3 because it's been asked and answered?</p> <p>4 MR. O'NEILL: Yes.</p> <p>5 MR. McKENNA: We're getting</p> <p>6 back into our groove again.</p> <p>7 BY MR. McKENNA:</p> <p>8 Q The intervention program -- well, strike that.</p> <p>9 Were you ever advised that</p> <p>10 unless someone specifically asked you about</p> <p>11 benefits or rates that were paid to not tell them?</p> <p>12 A Would you say that again?</p> <p>13 Q Sure.</p> <p>14 Were you ever advised that</p> <p>15 unless someone specifically asked you about</p> <p>16 benefits and rates that you weren't to tell them?</p> <p>17 A No.</p> <p>18 Q Have you ever inquired whether the insureds are</p> <p>19 being told?</p> <p>20 A No.</p> <p>21 Let me backup on that prior</p> <p>22 question. Would you repeat that question?</p> <p>23 MR. McKENNA: She'd have to</p> <p>24 read it back.</p> <p>25 (THE RECORD WAS READ BACK AS FOLLOWS:</p>	<p style="text-align: right;">Page 61</p> <p>1 MR. O'NEILL: Objection lack</p> <p>2 of foundation.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. McKENNA:</p> <p>5 Q I mean obviously you'd have to be aware of it to</p> <p>6 say there's an incremental rate increase, this</p> <p>7 person's not getting it and you were told not to</p> <p>8 inform them, correct?</p> <p>9 A Correct.</p> <p>10 Q Ma'am, the last question and answer that we talked</p> <p>11 about being told not to inform people unless they</p> <p>12 specifically asked, have you ever other than</p> <p>13 testifying in a deposition for me said that to</p> <p>14 anyone even at the Auto Club?</p> <p>15 A No.</p> <p>16 Q Have you ever been asked not to tell anyone of</p> <p>17 that policy?</p> <p>18 MR. O'NEILL: Objection lack</p> <p>19 of foundation, asked and answered.</p> <p>20 THE WITNESS: No.</p> <p>21 BY MR. McKENNA:</p> <p>22 Q So you've never advised the MCCA or complained to</p> <p>23 the MCCA that the Auto Club has told you not to</p> <p>24 disclose that information?</p> <p>25 A No.</p>

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<p>1 Q Do you think that would be problematic for the 2 Auto Club if the MCCA were to know that you have 3 been instructed specifically not to inform people 4 of benefits they're entitled to? 5 MR. O'NEILL: Objection. 6 There's no foundation that this Witness' job is to 7 inform claimants of any sort of benefits. 8 THE WITNESS: I don't know. 9 BY MR. McKENNA: 10 Q You indicated -- strike that. 11 Prior to doing the reserve 12 work were you a claims adjuster? 13 A Yes. 14 Q And as a claims adjuster you were taught or 15 trained, taught and trained by AAA how to do that 16 job, correct? 17 A Correct. 18 Q You had to understand what the No-Fault Act 19 entailed? 20 A Correct. 21 Q And what the AAA policy entailed? 22 A Correct. 23 Q Part of the No-Fault policy and the AAA No-Fault 24 policy and the No-Fault Act involves requirements 25 on the part of the Auto Club to pay reasonable</p>	<p>1 Q So in doing your job as a reserve specialist, you 2 rely upon your training that you've received as an 3 adjuster to know what's reasonable or 4 unreasonable? 5 A Yes. 6 Q And your job in what you do in setting reserves, 7 do you have to do that reasonably just as you did 8 as a claims adjuster? 9 MR. O'NEILL: Objection vague. 10 THE WITNESS: Yes. 11 BY MR. McKENNA: 12 Q And you understand that under the No-Fault Act and 13 under the policy that there's specific meaning to 14 the term reasonable? 15 A No, I don't know. 16 Q Well, you're aware that you only have to pay 17 claims that are reasonable? 18 A Yes. 19 Q You're aware that the company either through on 20 you or whoever else is adjusting a claim has to 21 act reasonably? 22 A Yes. 23 MR. O'NEILL: Objection. 24 Don't answer this question, 25 it's beyond the scope of the Court's Order.</p>
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<p>1 market rates for claims, correct? 2 A Reasonable. 3 Q Well, does the Auto Club pay unreasonable market 4 rates or reasonable market rates? 5 A Reasonable. 6 Q And you determine what's reasonable by determining 7 what the market rate is for that service -- 8 A Yes. 9 Q -- or claim? 10 A Yes. 11 Q So a reasonable market rate is what should be paid 12 for all claims? 13 A Yes, I would say so. 14 Q And if the Auto Club has information, if you're 15 working for the Auto Club as an adjuster, you have 16 to act reasonably in deciding to pay, deny or 17 delay payment of a benefit or claim pending 18 additional information, correct? 19 A Correct. 20 MR. O'NEILL: I'm going to 21 object to this line of questioning and instruct 22 her not to answer further questions along this 23 line as being beyond the scope of the Court's 24 Order. 25 BY MR. McKENNA:</p>	<p>1 BY MR. McKENNA: 2 Q Are you familiar with the term unreasonable? 3 MR. O'NEILL: Same objection. 4 Don't answer it. 5 BY MR. McKENNA: 6 Q Do you consider it to be unreasonable to withhold 7 information from insureds on rate increases 8 they're entitled to but aren't getting? 9 MR. O'NEILL: Same objection. 10 Don't answer. 11 BY MR. McKENNA: 12 Q As part of your daily job as the claim adjuster in 13 doing and setting reserves, you have to have a 14 perspective of what is reasonable and what is 15 unreasonable? 16 MR. O'NEILL: Objection. Her 17 job is not as a claims representative. 18 BY MR. McKENNA: 19 Q Go ahead. 20 A Would you restate that, please? 21 MR. McKENNA: Read it back to 22 her. 23 (QUESTION READ BACK AS FOLLOWS: 24 "As part of your daily job as 25 the claim adjuster in doing</p>

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<p style="text-align: right;">Page 66</p> <p>1 and setting reserves, you</p> <p>2 have to have a perspective of</p> <p>3 what is reasonable and what</p> <p>4 is unreasonable?")</p> <p>5 THE WITNESS: No.</p> <p>6 BY MR. McKENNA:</p> <p>7 Q To set a reserve don't you need to know what a</p> <p>8 reasonable benefit is?</p> <p>9 A No.</p> <p>10 Q So how do you set reserves then?</p> <p>11 A Based on what the decisions the adjusters make</p> <p>12 based on what they're paying.</p> <p>13 Q Let me ask you this, before you were told by the</p> <p>14 Auto Club not to advise about deficient payments</p> <p>15 or nonpayment of benefits, before you were told</p> <p>16 not to do that, did you have to know what was</p> <p>17 reasonable as far as benefits were concerned?</p> <p>18 A No.</p> <p>19 Q So when you knew that there were benefits that</p> <p>20 were being paid at a higher rate than what was</p> <p>21 being paid on the file that was in front of you,</p> <p>22 where did you obtain that information?</p> <p>23 A Information on the homecare rates?</p> <p>24 Q Homecare rates or whatever the rate is, I haven't</p> <p>25 limited it to anything.</p>	<p style="text-align: right;">Page 68</p> <p>1 instruction to stop doing that?</p> <p>2 A Yes.</p> <p>3 Q Prior to that you were doing it?</p> <p>4 A No, I had never done it. I had never addressed</p> <p>5 incremental rate increases.</p> <p>6 I don't know if it just</p> <p>7 occurred to me one day or what the reason was, but</p> <p>8 for some reason I asked somebody in management</p> <p>9 should I do this.</p> <p>10 Q And they told you don't do that ever again?</p> <p>11 A They just said don't.</p> <p>12 Q Right?</p> <p>13 A Right.</p> <p>14 Q When you documented on this case CPS memos, why</p> <p>15 would you do that?</p> <p>16 A That's how I was trained.</p> <p>17 Q Okay. Were you told why they wanted you to put</p> <p>18 the CPS memos screens on there?</p> <p>19 A No.</p> <p>20 Q You just been doing that because that's what you</p> <p>21 were told to do?</p> <p>22 A Correct.</p> <p>23 Q Were you also trained or told to send e-mails to</p> <p>24 get additional information?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 67</p> <p>1 A That was just information that I would pick up</p> <p>2 while I was working at MMU.</p> <p>3 Q So information you picked up doing your job?</p> <p>4 A Yes.</p> <p>5 Q And then you stopped paying attention to that</p> <p>6 information after you were instructed not to tell</p> <p>7 people?</p> <p>8 A No. I stopped advising branches after all of them</p> <p>9 completed homecare training.</p> <p>10 Q But you were told specifically to stop doing that,</p> <p>11 according to your testimony here today?</p> <p>12 MR. O'NEILL: At what point in</p> <p>13 time, Counsel?</p> <p>14 MR. McKENNA: I haven't asked</p> <p>15 her what point in time. She hasn't told me at</p> <p>16 what point in time. I didn't ask her about a</p> <p>17 point in time. I asked her only that she was</p> <p>18 instructed to stop doing that.</p> <p>19 THE WITNESS: I was not</p> <p>20 instructed to stop telling when rates went up. I</p> <p>21 was only told not to address incremental rate</p> <p>22 increases.</p> <p>23 BY MR. McKENNA:</p> <p>24 Q That's all I'm talking about.</p> <p>25 You were given a specific</p>	<p style="text-align: right;">Page 69</p> <p>1 Q You can use a CPS screen according to what we</p> <p>2 looked at here on this file and what you've</p> <p>3 already testified to on other cases to obtain or</p> <p>4 request information, correct?</p> <p>5 A Correct.</p> <p>6 Q But you also have e-mail?</p> <p>7 A Yes.</p> <p>8 Q If you were requesting or communicating</p> <p>9 information by CPS screen it's permanent?</p> <p>10 A Correct.</p> <p>11 Q Anyone can look at it?</p> <p>12 A Correct.</p> <p>13 Q If you use e-mails and don't destroy them, anyone</p> <p>14 can look at those as well?</p> <p>15 A Correct.</p> <p>16 Q Now, why is it that you would use an e-mail and</p> <p>17 not use the CPS screen to communicate regarding a</p> <p>18 file, hours, rates, anything at all like that, why</p> <p>19 would you use an e-mail over a CPS memo?</p> <p>20 A That's just how I opted to handle it.</p> <p>21 Q But if you had handled it you knew, you know any</p> <p>22 time you do send an e-mail you know that e-mails</p> <p>23 are being destroyed because you're going to</p> <p>24 destroy it, right?</p> <p>25 A Correct.</p>

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<p>1 Q And whatever the information was, if it was in a 2 CPS screen would be permanent and I could read it, 3 a judge could read it, a jury could read it, 4 anyone ever looking at the file would be able to 5 see what you did or said or requested? 6 A Correct. 7 Q So why is it then that you use e-mails and not CPS 8 screens? 9 MR. O'NEILL: Objection asked 10 and answered. 11 Tell him again. 12 THE WITNESS: I just -- that's 13 how I opted to handle it. 14 BY MR. McKENNA: 15 Q But you weren't trained to do that or you just did 16 this on your own? 17 A I just did it on my own. 18 Q Everything else that you do, you do because that's 19 what you were trained to do? 20 A Yes. 21 Q This one thing destroying e-mails is something 22 that you decided to do on your own and the Auto 23 Club let you do that? 24 A Decided to address -- even address the homecare 25 changes. A rate increase that's just something I</p>	<p>1 Q Have you been deposed by Ms. McCluskey? 2 A Yes. 3 Q You have had other depositions regarding these 4 issues? 5 A I don't remember if I addressed it in 6 Mr. Zebrowski. In Miss McCluskey I did say I 7 destroyed them. 8 Q And no one from the Auto Club has told you to stop 9 doing that since these depositions have been 10 taken? 11 MR. O'NEILL: Objection asked 12 and answered. 13 Don't answer it. She's 14 answered it two or three times already. 15 BY MR. McKENNA: 16 Q Has anyone from the Auto Club ever addressed your 17 policy of destroying e-mails? 18 A No. 19 MR. McKENNA: I want to take a 20 break. 21 MR. BURKEEN: Going off the 22 record. The time is 11:02 a.m. 23 (RECESS TAKEN) 24 MR. BURKEEN: Back on the 25 record the time is 11:06 a.m.</p>
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<p>1 decided today to do on my own. 2 Q I'm talking about the fact that you destroy 3 e-mails? 4 A Yes. 5 Q That's something that you decide to do on your 6 own? 7 A Yes. 8 Q And the Auto Club has let you do that for nine 9 years? 10 MR. O'NEILL: Objection lack 11 of foundation, but go ahead. 12 THE WITNESS: Yes. 13 BY MR. McKENNA: 14 Q And never told you to stop doing it? 15 A Yes. 16 Q And now this is the second deposition that you've 17 given at least with me on the fact that you 18 destroy e-mails? 19 A Yes. 20 Q And have you been deposed by anyone else where you 21 have advised them that you destroy e-mails? 22 A I had another dep. I don't remember if I 23 addressed that question or not. 24 Q Have you been deposed by Mr. Zebrowski? 25 A Yes.</p>	<p>1 MR. McKENNA: Thank you, 2 ma'am. I have nothing further. 3 THE WITNESS: Okay. 4 MR. O'NEILL: Okay. 5 MR. BURKEEN: We're ending 6 this deposition. The time is 11:06 a.m. 7 (DEPOSITION CONCLUDED 8 AT 11:06 A.M.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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